

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed August 11, 2008. At the time of the Office Action, Claims 12-22 were pending in this Application. Claims 12-22 were rejected. Claims 12-16, and 18 have been amended to further define various features of Applicants' invention. Applicants respectfully request reconsideration and favorable action in this case.

Claim Objections

Claims 12, 15 and 18 were objected due to the recitation of certain phrases, which the Examiner recommended be replaced with alternative language. Applicants have amended Claims 12, 15 and 18 accordingly.

Rejections under 35 U.S.C. § 112

Claims 13, 14 and 16 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 13, 14, and 16 to overcome these rejections and respectfully request full allowance of Claims 13, 14, and 16 as amended.

Basis for the clarification made to Claim 13 can be found in paragraphs [0004] and [0006] and Claim 16, reciting that the radio coverage area is that of the radio telecommunications system. Basis for the clarification made to Claims 14 and 16 can be found in paragraphs [0004]-[0006] and [0009], reciting that the radio telecommunications system includes a plurality of radio transmitters and receivers that use a dynamic multiple access method for separating users by means of a time-slot separation method.

Rejections under 35 U.S.C. § 102

Claims 12-14, 19 and 21 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,275,506 issued to Khaled Fazel et al. ("*Fazel*"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Fazel fails to disclose at least detecting whether a **repeat time slot** is used; performing frequency-slot separation on **to-be-repeated data packets** if the **repeat time slot** is detected, wherein the frequency-slot separation assigns the **to-be-repeated data packets** to a respective unique identifying frequency, and wherein the frequency-slot separation is carried out within the duration of the **repeat time slot**; and performing frequency selection in at least one of the radio transmitters and receivers wherein a **repeated data packet** is searched on the respective identifying frequency. This is naturally so because *Fazel* is an example of prior art using TDMA and is not concerned with ARQ. *Fazel*, column 5, lines 47-48.

The present invention reduces interference between radio transmitters and radio receivers of a radio telecommunication system by preventing collisions. These collisions may be created by too many repeat requests because of the absence of an acknowledgement of the receipt of a packet by such a repeat request. Thus, the existing resources become exhausted after a certain number of repeat request being constantly requested because no acknowledgement of receipt. Application, paragraphs [0002]-[0003].

Fazel, on the other hand, reduces interference by combining FDMA with TDMA. *Fazel*, column 6, lines 35-45. Contrary to the present application, *Fazel* does not reduce interference by preventing collisions with respect to **to-be-repeated data packets**, but by initializing the network according to claim 1. *Fazel*, Figures 9 and 10, column 10, lines 15-44, and claim 1. In fact, *Fazel* is silent with respect to to-be-repeated data packets. If the Examiner considers that *Fazel* discloses or discusses repeated data packets, then he is respectfully requested to mention where such a disclosure is made. The discussion of

background information in *Fazel* mentions the ARQ protocol used for reliable transmission and the detailed description of the disclosed embodiments in *Fazel* merely mentions that ARQ may possibly be used in connection with TDMA. *Fazel*, column 3, lines 25-31, column 7, lines 1-12. Again, *Fazel* is silent with respect to requests made by ARQ and such requested repeated data packets. It is further noted that the absence of a base station is essential for the embodiments described by *Fazel*. *Fazel*, column 5, lines 16-18, column 7, line 9.

Since *Fazel* fails to disclose the difference mentioned above with respect to to-be-repeated data packets it is respectfully requested that the rejection under 35 U.S.C. §102 is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102, if necessary.

Rejections under 35 U.S.C. §103

Claims 15-18, 20 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Fazel* in view of U.S. Patent No. 5,896,375 issued to Paul W. Dent et al. ("*Dent*").

Claim 22 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Fazel* in view of U.S. Patent No. 5,864,755 issued to Neal J. King et al. ("*King*").

Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an

apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

Both *Dent* and *King* fail to disclose at least detecting whether a **repeat time slot** is used; performing frequency-slot separation on **to-be-repeated data packets** if the **repeat time slot** is detected, wherein the frequency-slot separation assigns the **to-be-repeated data packets** to a respective unique identifying frequency, and wherein the frequency-slot separation is carried out within the duration of the **repeat time slot**; and performing frequency selection in at least one of the radio transmitters and receivers wherein a **repeated data packet** is searched on the respective identifying frequency. This is naturally so because *Dent* and *King* are not concerned with preventing collisions caused by too many repeat requests resulting from the absence of an acknowledgement of the receipt of a packet by such a repeat request. As mentioned above, *Fazel* fails to disclose the same. Consequently, one of ordinary skill in the art would not arrive at the subject matter of claim 12 when combining these documents.

Since the cited prior art fail to teach the differences mentioned above it is respectfully requested that the rejection under 35 U.S.C. §103(a) is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

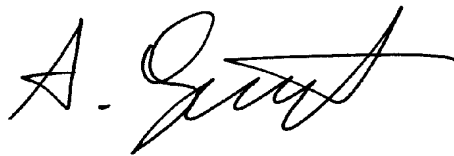
CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert
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PATENT APPLICATION
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**APPENDIX
AMENDED DRAWINGS**

